IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

Claim Numbers: HQ08X01180,
HQ08X01413
HQ08X01416
HQ08X03220
HQ08X01686

B E T W E E N :

(1) BISHER AL RAWI
(2) JAMIL EL BANNA
(3) RICHARD BELMAR
(4) OMAR DEGHAYES
(5) BINYAM MOHAMMED
(6) MARTIN MUBANGA

Claimants

and

(1) THE SECURITY SERVICE
(2) THE SECRET INTELLIGENCE SERVICE
(3) THE ATTORNEY GENERAL
(4) THE FOREIGN AND COMMONWEALTH OFFICE
(5) THE HOME OFFICE

Defendants

EXHIBIT LC13

[redacted]

From: [redacted]
Date: 10 January 2002

cc: PS/Mr Bradshaw
PS/PUS
[redacted]
[redacted], CIC
[redacted], News
Heads: CTPD, News Dept, NAD,
[redacted] Consular Divn
[redacted], Cabinet Office

PS

AFGHANISTAN: UK DETAINEES

ISSUE

1. [redacted]

TIMING

2. Immediate: [redacted]

PREFERRED OPTIONS

[redacted]

DC051/008/02

[redacted]

[redacted]

ARGUMENT

3. Transfer of UK nationals held by US forces in Afghanistan to the US base in Guantanamo is the best way to meet our counter-terrorism objective by ensuring that they are securely held. The only alternative is for the UK to take custody of them, either by UK forces in Afghanistan (who do not have the capacity to hold prisoners) or repatriation. [redacted]

4. The security services are currently in Afghanistan interviewing detainees with a UK connection. [redacted]

5. If British nationals are to remain in US custody we will need to continue to meet our consular obligations. In agreeing to this plan, we would need a number of reassurances from the Americans, notably:

- full information on who is being detained and who will be transferred;
- a guarantee of consular access in accordance with international obligations;
- information in due course of US intentions for handling these cases;
- if they plan to prosecute, full information on the procedure to be used (ie whether they will use military tribunals and details of how they would operate) including reassurances that any trial will conform with international standards and that no UK national will be sentenced to death.

[redacted]

BACKGROUND

6. We are aware of up to 12 possible British nationals held in Afghanistan, 5 by the US in Kandahar and 3 in Bagram. Washington telno 30 reports that the US now plan to start transferring detainees to the base in Guantanamo Bay in Cuba. The first batch, who might leave today, could include some who claim UK nationality. [redacted].

7. [redacted] There will inevitably be questions from MPs and the press about whether they will be tried by military tribunals and possibly executed. We should seek reassurances from the Americans on these points.

[redacted]
1TL

[redacted]

RESOURCE IMPLICATIONS

8. None.

PRESS LINES

9. News Department have had a lot of inquiries about UK detainees. Transfer of UK nationals to Guantanamo will quickly raise in the mind of the press the issue which we have so far been able to avoid publicly: are these British nationals to be tried in US military tribunals and be subject, possibly, to the death penalty. Our line – that we are seeking information and reassurances and that the US is aware of our opposition to the death penalty – is not strong, but a stronger line is difficult until policy is clearer. As the detainees will still be abroad, the FCO will remain the lead Whitehall department in press terms.

10. If asked about transfer to Guantanamo, we can say:

- We are aware of US plans to transfer detainees, including some UK nationals, to Guantanamo.
- The issue of how these prisoners should be handled is a matter for the US authorities. They have told us that they would be treated humanely.
- We have asked the Americans for full information on who will be transferred and what will happen to them. We are asking for consular access and reassurances that any trial will conform to international norms.

[redacted]

CTPD
Tel: [redacted]

[redacted]

[redacted]

[redacted]

NOTE FOR FILE

For PA on: [redacted]
Copied To: [redacted]
Author: [redacted]
Ext. No: [redacted]
Date: 22 August 2002

SUBJECT: MUBANGA: Background to case

1. The following is background to Martin MUBANGA's detention in Zambia and subsequent transfer to GTMO.

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- Also on 19 March, [redacted] informed [redacted] that we were keen to obtain access to MUBANGA and could deploy at short notice. [redacted] also discussed the possibility of MUBANGA's release, [redacted]

[redacted]

[redacted]

[redacted] The telegram raises the possibility that MUBANGA might be sent to GTMO, stating that "Whether they do so is a matter solely for the US. However, we would hope that they would have legitimate reasons, and see real advantage in taking this action."

- [redacted]

- [redacted] On the same day, [redacted] briefed senior FCO officials, but not Consular Division.

- On 20 March, [redacted] wrote to John Gieve (copied to [redacted] John Scarlett, [redacted] and Jonathan Sedgwick) outlining the MUBANGA case. This letter stated [redacted]

- MUBANGA was interviewed by [redacted] in Lusaka on 23 and 24 March. [redacted] judged him to be [redacted] in many cases unbelievable. [redacted]

- [redacted]

- [redacted]

- On 26 March, the MUBANGA case was discussed by [redacted] FCO Consular Department and SO13. Consular were supportive of [redacted] actions to date but wanted to avoid inconsistencies in the way in which detainees were treated: Consular Department has requested access in other cases and therefore planned to send a message to Consul in Lusaka to ask them to seek consular access for MUBANGA on normal channels.

[redacted]

[redacted]

- Also on 26 March, [redacted] informed [redacted] that HMG would not accept the transfer of MUBANGA to US custody through UK officials [redacted]

- [redacted]

- Subsequent to this, MUBANGA was handed over to the US authorities in Zambia and rendited to GTMO, [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Internal Addressees
Action: [redacted]

Info: [redacted]

Date:261516Z JUN 02

Originator: [redacted]

Telegram Number: [redacted]

ADDRESSEES:
TO [redacted]
TO
TO

PROTECTIVE MARKING:
[redacted]

Subject:DEGHAYES

BEGINS
[redacted] 26 June 2002
Immediate
To [redacted]

SUMMARY

DEGHAYES continues to lie about his involvement in extremism. Some progress made though, particularly his admission of being a Bosnian vet. Having been confronted with accurate information regarding his past we believe that DEGHAYES probably now realises the sedriousness of his position. This may provide an opening in future interviews.

DETAIL

On 24 June, [redacted] and [redacted] interviewed Omar DEGHAYES in the Bagram detention centre. The interview commenced at 1345 GMT and finished at 1600 GMT. DEGHAYES was brought to the interview room manacled and hooded. When the hood was removed, DEGHAYES looked pale and shaky. We asked if he was ill and he replied that he was suffering from Malaria. We immediately asked if he was well enough to be interviewed and he replied that he was. We offered him some water, which he accepted. DEGHAYES stated that his condition was being made worse by the food provided for the detainees and claimed that he had not eaten for two days. However, his condition appeared to fluctuate throughout the interview, worsening whenever he was found out to be lying. After we had ensured he was well enough to continue we introduced ourselves, and explained the role of MI5.

2. We went on to explain that he was being held in custody solely by the Americans, and as we understood it he could face a long period of incarceration. We may be able to help him but the only circumstances in which we would even consider this is if he were to be completely honest and tell us everything that we wanted to know. DEGHAYES assured us he had nothing to hide and would be completely honest with

[redacted] DEGHAYES started mumbling unconvincingly at this point, saying that Afghanistan was not such an important issue in those days, there was no reason to talk about it. [redacted]

14. [redacted] Again, DEGHAYES started rambling, saying that he lived in a very distinctive house in Brighton and everyone knew he lived there. Consequently many Libyans came to visit him. [redacted]

15. [redacted] Did you talk about he GIA. No, never, the LIFG wouldn t co-operate with the GIA, they were animals and criminals. Whereas the LIFG was only interested in overthrowing Qaddafi, the GIA was so extreme it would even kill women and childern. [redacted]

16. [redacted]

17. [redacted] He repeated the rather tame excuse that it was merely because of his family name. He said, emotionally, that, yes he supported the LIFG, if they wanted him to go and fight in Libya he would go. He told us that he had never told anyone else that, so would we now believe him. We told him this was simply not good enough. We repeated that we wanted to help him but as it was he would be staying in prison for a long time because we knew he was lying. We stressed that we knew about most of his activities already and merely wanted him to confirm

Prisoner Interview Report

Section:	
Reference:	
Drafting Date:	5 July 2002

1. Name of Interviewee:	Omar DEGHAYES
2. Interviewing Officer:	and Paul and Martin
3. Details of others attending:	
4 Date, Time and Duration of Interview(s):	24 June 2002, 1345 - 1600 GMT
5. Place:	Bagram Detention Centre, Bagram, Afghanistan
6. Circumstances in which Interview was held (how arranged, facilities used etc.):	Facilitated by in control of Detention Centre. Interview conducted in interview facilities at Bagram Detention Centre. Prisoner was sitting, shackled, facing Interviewing officers.
7. Physical Security measures in place:	Interviewee was shackled throughout the interview and an guard remained outside the interview room.
8. Physical and Mental condition of Interviewee:	At the beginning of the interview, subject was asked about his health and opinion on the conditions. Subject said that he felt unwell and that he thought he had malaria. We asked him if he was happy to continue with the interview. If he felt unwell we could stop at any time. He said he was happy to continue and would let us know if he wanted to stop.
9. Demands/requests made by Interviewee to Interviewer:	No demands/requests were made.
10 Additional Comments/remarks:	

Completed by:	
Date Completed:	5 July 2002

[redacted]

[redacted]

Internal Addressees
Action: [redacted]

Info: [redacted]

Date:050658Z JUL 02

Originator: [redacted]

Telegram Number: [redacted]

ADDRESSEES:
[redacted]

PROTECTIVE MARKING:
[redacted]

Subject: Interview with Omar Amer DEGHAYES, 3 July 2002

Summary

Some progress made on specific topics but DEGHAYES clearly lying and holding back on many issues, including [redacted] operations in Afghanistan. [redacted]

Detail

1. [redacted] and [redacted] interviewed DEGHAYES from 1630 to 1930 (local time) on 3 July 2002 at the Bagram detention centre. We learned shortly before the interview that a medical examination had pronounced DEGHAYES clear of both TB and malaria. Comment: throughout the interview DEGHAYES expectorated rather disgustingly into a tissue as if he were still tubercular. These moments usually coincided with those answers where he was most evasive. At other times he smiled in an embarrassed way when making admissions [redacted]

2. When DEGHAYES was brought in to the interview room he appeared fit and mentally alert, although noticeably thinner than [redacted] previous interview with him in Islamabad. DEGHAYES recognised [redacted] and was introduced to [redacted] as 'Jeff'. We told him that we wanted to continue where our predecessors left off, and asked him if he was fit to be interviewed. He said he was, although complained that he had internal bleeding. We told him that, as we understood, he did not have malaria or TB. DEGHAYES said he knew this but he was definitely ill - the doctor just couldn't work out what it was. He said the medical staff thought he was malingering and challenged us to explain how anyone could feign internal bleeding.

3. DEGHAYES then launched into an extended complaint about why he was being held. No evidence had been presented yet he was still in custody. He was also being treated badly, with head-braces and lock-down positions being the order of the day. He was treated better by the Pakistanis; what kind of world was it where the Americans were more barbaric than the Pakistanis? We listened but did not comment.

[redacted]

Internal Addressees
Action: [redacted]

Info: [redacted]

Date:131600Z JUL 02

Originator: [redacted]

Telegram Number: [redacted]

ADDRESSEES:
TO [redacted]
CC [redacted]

PROTECTIVE MARKING:
[redacted]

Subject:INTERVIEW WITH OMAR AMER DEGHAYES (12 JULY 2002)

BEGINS

120702 [redacted]

IN [redacted] FOR [redacted] FOR ACTION [redacted] FOR INFORMATION
IN [redacted] FOR [redacted] FOR ACTION [redacted] FOR INFORMATION
IN [redacted] FOR [redacted]

Text Begins

Summary

1. DEGHAYES refuses to cooperate.

Detail

2. [redacted] Andrew interviewed DEGHAYES from 0700-0715 on 11 July 2002 at the Bagram detention facility. As soon as he was in the room, I told DEGHAYES I didn t have much time and was about to leave Bagram. [redacted] For these reasons, and others which I did not want to go into, we knew DEGHAYES s story was not true. I told him that before I left Bagram I was required to provide an assessment to the authorities at the facility on the level of his cooperation. Would he come clean?

3. DEGHAYES said he had told the truth. If I didn t believe him it was my fault.

4. I asked [redacted] a senior officer in the facility, to come into the room. I told [redacted] in DEGHAYES s hearing that DEGHAYES was not cooperating. [redacted] DEGHAYES mumbled that he had

[redacted]

Afghanistan
- could this be a story to cover up a longer period in the camp?)

[redacted]

22. We are due to see him 2100 local time on 4 March (1600Z) and propose that we treat this as our last opportunity to get the full truth from him. If he sticks to his story and just gives us a few more details, we propose disengaging and allowing events here to take their course.

[redacted] If however he satisfies us that he is giving us everything, we propose leaving for Kandahar (via Islamabad [redacted] before returning to Karachi to see him again. [redacted] Please let us have your instructions.

ENDS

[redacted]

DCC051/008/02
RECEIVED IN REGISTRY
14 JAN 2002
MINISTER | REGISTRY
INDEX | PA | Action Taken
CB

FROM: [redacted]

DATE: 2 January 2002

cc: PS
PS/Mr Bradshaw
[redacted]
Heads: Consular Division, Emergency Unit, UND, CTPD, [redacted]

PS/PUS

UK NATIONALS HELD IN AFGHANISTAN

1. The PUS asked what we were doing about UK nationals detained in Pakistan and Afghanistan after the fall of the Taliban regime.

Numbers

2. We are aware of eight possible UK nationals detained in Afghanistan and a further two held in Pakistan. [redacted] Consular Division will send the details to Kabul and to the Security Services on 3 January. [redacted]

3. Today's 'Times' contains an article about a UK national - [redacted] - held in Pakistan. [redacted]

Questioning

4. The SIS and Security Service have given careful thought to how and where to question detainees. [redacted]

[redacted]

[redacted]

5. [redacted]

6. [redacted]

Media

7. Pakistan. We are facing real presentational difficulties on the consular side. The media are pressing hard for confirmation of detailed reports in the press of [redacted] detention. [redacted] We need to verify his identity, check his welfare, and offer communication with his family.

8. Afghanistan. We will instruct the Embassy in Kabul on 3 January to try to contact those who prima facie seem likely to be British nationals to offer a consular visit. Again, we should (i) confirm identity, (ii) check welfare and (iii) offer communication with families.

9. In terms of handling press inquiries, we have hitherto said simply that we were seeking to obtain details of those held. News Department will now say that detainees who may be British nationals will be offered a consular visit to (i) ~~confirm identity, (ii) check welfare and (iii) offer~~ communication with families.

10. If asked whether we would repatriate UK nationals detained in Afghanistan, we propose (subject to Legal Advisers' views) to say that it is premature to consider repatriation until we have established whether the detainee holds British nationality.

Counter Terrorism Policy Department
Tel: Fax:
Email: @fco.gov.uk

07

DRAFT PRESS LINES

BRITISH NATIONALS IN AFGHANISTAN/PAKISTAN
4 January 2002

[redacted]: Pakistan

- We are still waiting for official confirmation from the Pakistani authorities that they are detaining a British man [redacted]) in north Wazaristan, who was reportedly arrested after crossing illegally from Afghanistan into the NW province of Pakistan.

- At a lower, unofficial level we have had conversations with Pakistani officials which lead us to believe that the reports are true. Normally we would only be able to ask for access once we have received official confirmation that the person detained is British. However, at the same time as asking the Pakistani authorities to confirm officially [redacted] nationality, we are also now pressing them for access to him (by an FCO official)

- We have been contacted by [redacted] mother (if asked: on 3 January). We told her that we are still trying to establish the facts of her son's detention. Once we have been able to speak to him, we will be able to ask him whether he wishes us to pass on information and messages to his mother

If asked: what will happen to [redacted] in the longer term?

- For questions about possible prosecution and what may happen to him on his return to the UK: this is a matter for the prosecuting authorities

Has any British official been to see [redacted]?

- He has not yet been seen by any FCO official (if asked whether officials from security services have seen him: we don't comment on security matters)

Times article (which stated that the CIA is preventing our consular officials from seeing [redacted])

- We do not usually comment on allegations about intelligence matters, but exceptionally in this case we can say that this story has no foundation whatsoever.

OTHER BRITS IN PAKISTAN/AFGHANISTAN

Three British Nationals identified by ICRC in Shibergan?

- Can confirm that the ICRC reported to us on 31 December 2001 details of three men detained in Shibergan prison. The men identified themselves to the ICRC as British nationals.

- Names? Our policy is only to release names once NOK have been informed. We do not have contact details at present of the mens's NOK. (Once NOK are

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informed they are: they are: [redacted]

- We are seeking further details of the men's identity and nationality. We do not currently have a consular presence in that part of Afghanostan, but the ICRC are able to perform some of the usual consular responsibilities (ie checking on the welfare of the men) on our behalf.

Will you be contacting the men's next of kin?

- We will need more details before we can contact next of kin.

What will happen to the men?

- See answer above for [redacted]

Possible British national in hospital in Pakistan?

- We are aware that there is a man (if known: [redacted]) currently being detained at a hospital in Peshawar who, although originally believed to be French, may be a British national.

- Embassy staff in Islamabad are establishing whether he does hold a British passport. If he does, he will be offered consular assistance. We will also be in contact with the Pakistani authorities about what happens to him next.

- We cannot comment further on this man's status until we can establish whether he is or is not a British national

[redacted]?

- We have spoken to family members of a man (confirm: [redacted], 35, from Manchester) who has been interviewed by newspaper reporters in Kandahar, and assured them we will do what we can to help him. We do not have consular staff in Kandahar. But we would do what we could for him were he to get to Kabul.

- This would include discussing with him whether he wished to return to the UK, contacting friends and family to help raise the money for the flight home and issuing him with an emergency passport once we have confirmed he is British. We would also advise him as best as we could on the best way for him to get home.

- We will do the same for any British national in Afghanistan who are not being detained. We have also asked the International Committee of the Red Cross (ICRC) to pass any details of any British nationals they come across to us.

Other British nationals?

- There are many rumours about British nationals detained in Afghanistan and Pakistan; we are not prepared to comment or speculate on rumours. We will comment once we have received official notification either from the detaining forces, from the ICRC or from family members.

- British nationals who fought with the Taliban may face charges on their return to the UK: this is a matter for the prosecuting authorities.

Reports of BNs killed in Mazar-I-Shariff

- There were reports that two BNs were killed in the incident at Mazar-I-Shariff.

- We have been unable to confirm these reports.

- We have asked the ICRC to give us any details they can. If there are any BNs the ICRC will facilitate contact with the families. We will do what we can to help them.

[See separate press lines for [redacted]]

[redacted]
FCO News Department
[redacted]

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[redacted]

From: [redacted]
Date: 04 January 2002

cc: PS/Mr Bradshaw
PS/Baroness Amos
[redacted]
Legal Adviser
[redacted]
Heads: Emergency Unit;
UND;CTPD;
[redacted]; News Dept
[redacted] Legal
CTPD
[redacted] News
Consular

PS/PUS
PS

BRITISH DETAINEES IN AFGHANISTAN AND PAKISTAN

ISSUE

1. The press are focussing on the absence of consular access to the several British mujahideen detained in Afghanistan and Pakistan. Our normal approach is complicated by the uncertainty over possible prosecution. But we need to be seen to be doing more than we have so far.

TIMING

2. Immediate.

PREFERRED OPTION

3. Draft press lines and a telegram of instructions to Islamabad and Kabul are attached. Legal Advisers, Emergency Unit and News Department agree.

ARGUMENT

4. The PUS's minute of 3 January to the Legal Adviser raised the issue of press lines. We have discussed with Legal Advisers and have agreed a practical way forward as set out in this submission.

264/1

134/1

[redacted]

DCCOS1/008/02

[redacted]

5. The press have been focussing on the case of [redacted], a British national detained in Pakistan on [redacted] after entering the country from Afghanistan. They have highlighted his long association with Islamic militancy, and are pressing to know what we intend to do about him. They continue to make similar enquiries about detainees in Afghanistan.

6. The question what should happen to the detainees is still under consideration by Ministers, who have asked for advice from the Attorney-General on possible relevant offences which may have been committed. We need to avoid pre-empting any decisions.

7. There is, however, no legal objection to us seeking consular access to any British detainees held in Afghanistan and Pakistan. We have not yet done so. [redacted]

8. Public opinion has on the whole shown little concern about the welfare of the British detainees, or the legal terms of their detention. But the issue is clearly of sensitivity to Muslim opinion in the UK and abroad. The [redacted] case has a high profile in [redacted]. The press are continuing to pursue the questions of what we propose should happen to the detainees, and by extension what we are doing to safeguard their rights and their welfare. We need to ensure that we are seen as applying our normal standards of consular assistance as far as possible in the unusual circumstances of the conflict in Afghanistan. Our holding line, that we are first seeking to establish identity details, is wearing thin. This is particularly so in the case of [redacted] about whom extensive details have now been published in the press. [redacted]

9. It seems clear that we should where possible seek direct access to our detainees, wherever they are, in order to allay concerns about their welfare, and to show that we are not denying them basic consular protection. The attached draft press lines and instructions to posts reflect this.

BACKGROUND

10. There are three British nationals ([redacted]), and two possible British nationals ([redacted] and [redacted]) detained by the US Special Forces in Kandahar. Three [redacted]

[redacted]

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264/1

134/1 220

[redacted]

[redacted], [redacted] and [redacted] were visited by the ICRC at their original place of detention at Shibergan, and the press are now aware of this [redacted]

10. Another British national, [redacted], has been held by the Northern Alliance since 1998, [redacted] We have arranged for a bag of personal items to reach him from his family in the UK. We have just seen a press report that he has been diagnosed as having TB. [redacted]

11. [redacted]

12. [redacted]

[redacted]

[redacted]
Head of Consular Division
[redacted]
Tel: [redacted]

[redacted]

264/1

134/1 221

144887/02 (11)

Our ref: GP/jp

Your ref:

Birnberg Peirce & Partners

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The Foreign Secretary
The Foreign and Commonwealth Office
By FAX: [redacted]

CTPO
For action please
cc: Consular Division
[redacted]
PSK2 (MS
PS/Sir Andrew
PS/Mr Rycroft
PS/PUS

24 February 2002

Dear Sir

Re: [redacted]

We write to express our extreme concern of the position of the two above-named for whom we act, who are at present detained in Guantanamo Bay. On Thursday of last week we met with representatives of the Foreign and Commonwealth Office and left the meeting with the highest degree of alarm at the lack of knowledge that the British Government possesses of the basic elements which would assist in determining whether these British citizens were lawfully detained or not. [redacted], whom we met, indicated that he was not aware of when, where or in what circumstances the two were captured or by whom, whether by armed brigands, members of the Northern Alliance, or neither, whether he was aware that there was said to be a bounty placed on the head of the capture of any person in Afghanistan who spoke English, whether they had been classified by the Americans as suspected of any offence and if so, what. In answer to all our questions [redacted] replied that the British Government did not know, and that it was waiting for the Americans to 'make up their minds what to do in relation to detainees'. We were extremely concerned at the lack of urgency felt towards the detainees, particularly in relation to [redacted] To contemplate such an individual undergoing interrogation would be a matter of extreme concern in any circumstances, but given that [redacted] letter also indicated that [redacted] and that he had also been interrogated by members of MI5 (this letter having been clearly written some 6 weeks before its arrival in England in the third week of [redacted]) that implies that the British Government has in fact been party to taking advantage of unlawful detentions achieved by the Americans and attempting to obtain 'evidence' from vulnerable individuals without the proffering of any safeguards of due process.

Partners
Gareth Peirce
Timothy Greene
Nigel Leskin
Fiona Lindsley

Solicitors
Matthew Gold
Alastair Lyon
Irene Nembhard
Sarah Woodhouse
Hussein Zahir

Immigration Caseworker
Irfan Cangatin

Community Legal Service

Specialist Help Point

The firm is regulated by the Law Society in the conduct of investment business

DCC 051/08/02

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[redacted]

483

7 December 2005

Dear [redacted]

Detainees

Summary

[redacted]

2. Advice too on handling. We should try to avoid getting drawn on detail, at least until we have been able to complete the substantial research required to establish what has happened even since 1997; and to try to move the debate on, in as front foot a way as we can, underlining all the time the strong counter-terrorist rationale for close co-operation with the US, within our legal obligations. Armed with Rice's statement and the Foreign Secretary's response, we should try to situate the debate not on whether the US practices torture (and whether the UK is complicit in it): they have made clear they do not – but onto the strong US statements in Rice's text on their commitment to domestic and international instruments. A debate on whether the US test for torture/CID derives from their commitments under the US Constitution rather than international law is better ground than the principle of whether they practice torture.

Detail

3. You asked for further advice on substance and handling, following my letter of 5 December, including with a view to PMQs on 7 December. Specifics:

What do we mean by "Rendition"?

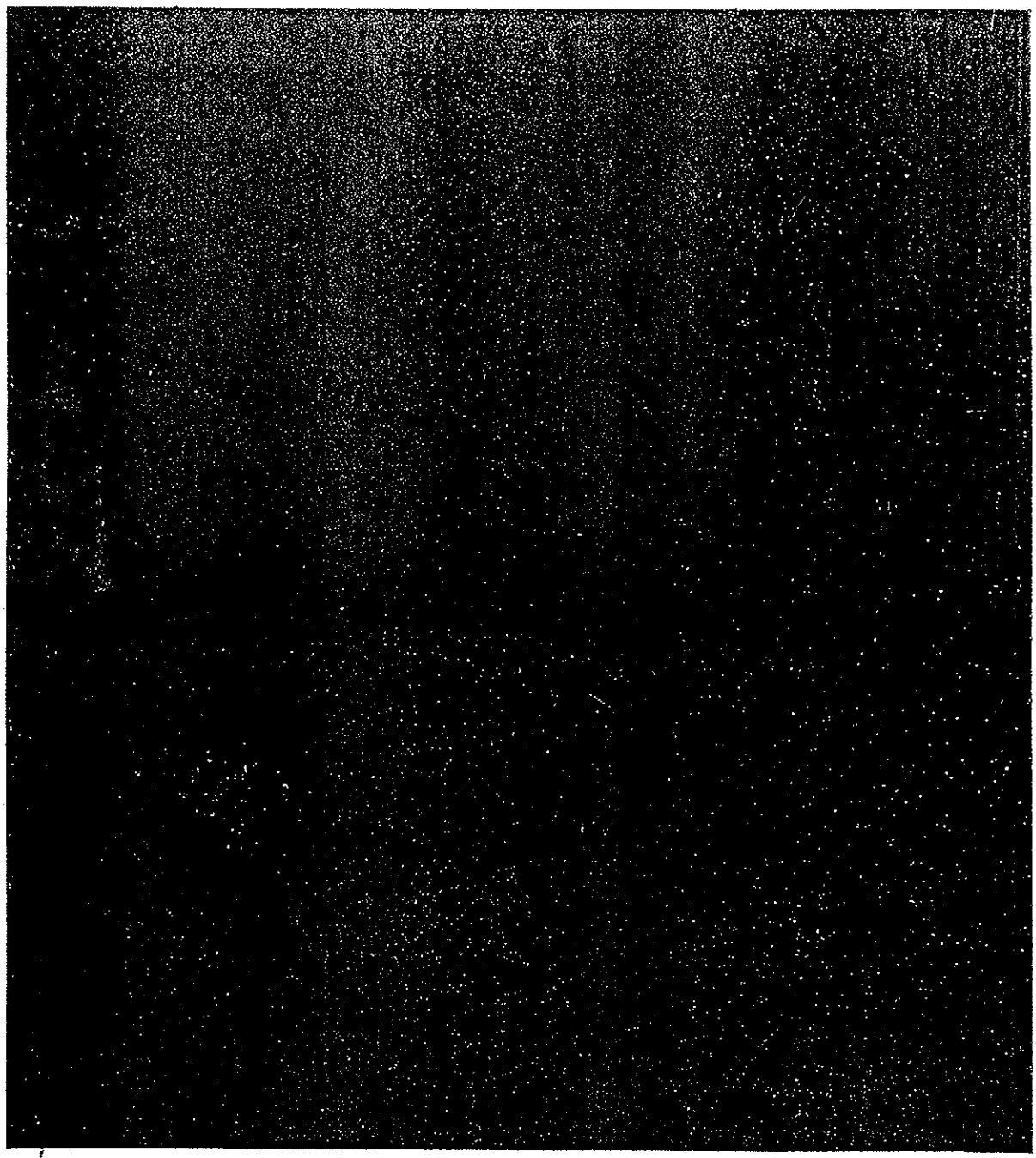
4. This is not a legally defined term. But it is normally understood to mean the transfer of a person from one jurisdiction to another, outside the normal legal processes such as extradition, deportation, removal or exclusion. It does not necessarily carry any connotation of involvement in torture.

[redacted]

[redacted]

"Extraordinary Rendition"?

5. The use of this term is even more varied. In its recent letters to Chief Constables and Ministers, Liberty has defined it as transfer from one third country to another. But it is normally used to connote the transfer of a person from one third country to another, in circumstances where there is a real risk (or even intention) that the individual will be subjected to torture or cruel, inhuman or degrading treatment (CID). Indefinite detention without legal process could be argued to constitute CID.



pr. McCain

[redacted]

[redacted]

10. The US government does not use the term "Extraordinary Rendition" at all. They say that, if they are transferring an individual to a country where they believe he is likely to be tortured, they get the necessary assurances from the host government (cf Rice's Statement: "The US has not transported anyone, and will not transport anyone, to a country when we believe he will be tortured. Where appropriate, the US seeks assurances that transferred persons will not be tortured"). [redacted]

[redacted]

[redacted]

[redacted]

What happened in 1998?

[redacted]

[redacted]

15. [redacted]:

i) An individual, [redacted], was suspected of involvement in bombing the US Embassy in Nairobi. The US asked [redacted] for assistance with his return from Kenya to the USA for trial. [redacted] The request was agreed by the Home Secretary, Jack Straw.

ii) A similar request the same year was turned down, because the individual concerned was to be transported to Egypt [redacted]

[redacted]

17. The papers we have unearthed so far suggest there could be more such cases. The Home Office, who lead, are urgently examining their files, as are we. But we now cannot say that we have received no such requests for the use of UK territory or air space for "Extraordinary Rendition". It does remain true that "we are not aware of the use of UK territory or air space for the purposes of "Extraordinary Rendition"". But we think we should now try to move the debate on from the specifics of rendition, extraordinary or otherwise, and focus people instead on the Rice's clear assurance that all US activities are consistent with their domestic and international obligations and never include the use of torture.

Handling

18. As far as possible, we should stick to the terms of the Foreign Secretary's Statement in response to Rice's, and his letter to EU Foreign Ministers covering her reply. We should also try to bring out the other side of the balance, in terms of the huge challenge which the threat of terrorism poses to all countries, and the need to balance the rights of the suspected terrorist against those of his potential victims.

19. More broadly, we should try to move the debate on from concentrating on whether the US practice torture, which they have clearly said they do not, and try to focus on the US's constructive reassurance that, in all respects, they have acted in a way consistent with their domestic and international legal obligations, and with the sovereignty of those countries with which they have been working.

[redacted]

[redacted]

20. I am copying this letter to [redacted]

[redacted]

Private Secretary

[redacted]
10 Downing Street

[redacted]

THE SECURITY SERVICE

TEL:
FAX:

Our Ref:

Your Ref:

Date: 10.06.02

To: DC

Subject: OMER AMER DEGHAYES

1. as discussed here is a copy of the reply that I've recently sent

2.

3. According to our information the subject, is believed to be a Libyan national, born 26th November 1969 in Tripoli, Libya and

4. DEGHAYES, is also thought to be involved with the Libyan Islamic Fighting Group (LIFG).

5. It is understood that DEGHAYES travelled to Bosnia Omar spent approximately 12 months there returned to the UK in 1995.

6. Upon his arrival in London, DEGHAYES studied for a Law Degree at a London University (details unknown). He was apparently reported, in April 1996, to be a supporter of Algerian Islamic extremists, and involved in the distribution of the, Islamic Salvation Front (FIS) publication, AL TABSIRA. He was refused British Nationality on the 01.11.2000 on Residence grounds (Code R). His Home Office file reference No. is D1005252.

[redacted]

THE SECURITY SERVICE

TEL: [redacted]
FAX: [redacted]

7. Since our initial enquiries, DEGHAYES has been seen by officers from this Service who interviewed him in Pakistan. Details of that interview are as follows:

8. At first DEGHAYES attempted to persuade [redacted] that he was, in fact, his older brother, [redacted] He maintained that his work in Bosnia and Afghanistan was purely charitable, although admitted some (limited) contact with the Libyan Islamic Fighting Group (LIFG).

9. [redacted] He admitted being QUOTE more on the muqatila side UNQUOTE, which he clarified as meaning the LIFG. [redacted]

10. [redacted]

11. [redacted]

12. [redacted]

13. [redacted]

[redacted]

[redacted]

THE SECURITY SERVICE

TEL: [redacted]
[redacted]
FAX: [redacted]

14. [redacted]

15. [redacted]

16. [redacted]

17. [redacted]

18. [redacted]

DEGHAYES Changes His Story

19. DEGHAYES was then advised that it would be in his interest to tell the truth. After a short recess he admitted that he was frightened about being repatriated to Libya. He was asked if he was telling [redacted] he was Abu Bakr (and a UK passport holder) because of this. He admitted that he was, in reality Omar (and therefore not a UK citizen). But (he said immediately) that

[redacted]

THE SECURITY SERVICE

TEL: [redacted]
FAX: [redacted]

was the only thing that was untrue about what he had said. It was Abu Bakr who had travelled to Libya and he had done so in order to see his family (Abu Bakr was still married to his children's mother). Incredulity was once again expressed about this, but DEGHAYES insisted it was true, and that Abu Bakr had been imprisoned.

20. [redacted]

21. [redacted]

22. [redacted]

Bosnia

23. DEGHAYES admitted having been to Bosnia for 2-3 months, specifically Zagreb. He insisted he worked only with the NGO Human Concern and had not fought in the Katiba.

[redacted]

24. [redacted]

[redacted]

[redacted]

THE SECURITY SERVICE

TEL: [redacted]
FAX: [redacted]

25. [redacted]

26. [redacted]

27. [redacted]

28. [redacted]

29. [redacted]

Conclusion

30. [redacted]

[redacted]

[redacted]

THE SECURITY SERVICE

TEL: [redacted]
FAX: [redacted]

Comments

31. DEGHAYES turned out to be a surprisingly forceful character whose denials of anything beyond a superficial involvement in the LIFG were robust - although not believable. He is obviously lying about the depth and extent of his involvement. He fits the pattern of a mujahid recruited in the UK, although it was interesting that he spent so long in Afghanistan [redacted] His apparent acceptance of the possibility of repatriation to Libya was surprising as he had appeared [redacted] sufficiently worried during this interview to lie outrageously about his identity.

[redacted]

32. [redacted]

33.

34.

[redacted]

[redacted]

[redacted]

THE SECURITY SERVICE

TEL: [redacted]

FAX: [redacted]

End Of Document

[redacted]

[redacted]

[redacted]

LOOSE MINUTE

To: [redacted]
From:
Ext No:

[redacted]

Date: 17 June 2003

File Ref: [redacted]
Copied To:

SUBJECT: **GTMO interview with Omar DEGHAYES.**

THE FOLLOWING INFORMATION IS FOR ADDRESSES INFORMATION ONLY.

THIS DOCUMENT MAY NOT BE FURTHER DISSEMINATED OR USED WITHOUT PRIOR REFERENCE TO [redacted] OR [redacted]

[redacted]

1. [redacted] interviewed Omar DEGHAYES on 28/4/03, 0730 to 0945, in Camp Delta, GTMO. Also observing was [redacted]

2. DEGHAYES began the interview with a hostile attitude, stating that he wanted to know what crime he had committed and what charges were being made against him. He riled for some time against the system which detained him and the US legal basis for it. He stated that he would not talk to us as he was not a MI5 spy and had spoken to [redacted] colleague several times in Bagram. He stated that the UK government should be working for UK nationals rather than bothering with him. Several times he stated that he thought MI5 should find things out about him by asking other people and not him.

3. He stated that he had been visiting prisons in the UK to investigate human rights issues. He stated that he had attended two different law colleges (one being Huddersfield). He then asked about home, particularly the weather, football and Muslim/non-Muslim relations. He stated that GTMO was better than Bagram.

4. [redacted]

[redacted]

[redacted]

5. [redacted]

6. [redacted]

7. [redacted]

8. [redacted]

9. [redacted]

10. [redacted]

11. [redacted]

12. [redacted]

13. [redacted]

[redacted]

14. [redacted]

15. [redacted]

16. [redacted]

17. [redacted]

18. [redacted]

19. [redacted]

Date Report Completed: 13 May 2003 (from contemporaneous notes).

[redacted]